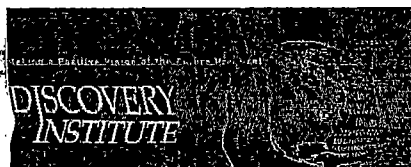


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**DEC - 3 2007**

Federal Communications Commission  
Office of the Secretary

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: PP Docket No. 00-67, and CS Docket No. 97-80

Dear Ms. Dortch:

We urge the Commission to refrain from promulgating regulations in the area of video navigation devices, and specifically urge the Commission to refrain from adopting unnecessary and extremely burdensome regulations needed to implement the "DCR+" rules and related requirements proposed by the Consumer Electronics Association and some consumer electronics (CE) manufacturers in their November 7, 2006 FCC filing.

Regulation in this area is absolutely unnecessary. Specifications for interoperability of so-called "navigation devices" (TV sets and set-top boxes that access cable programming) have already been established in the free market. The cable industry is supporting these specifications, and CE manufacturers are building devices to these specifications, all on a voluntary basis. These existing interoperability specifications give CE device manufacturers flexibility, including the ability to incorporate access to Internet video and other programming sources into their devices. This indicates a well-functioning marketplace that does not require more government involvement.

The most egregious proposal before the Commission is the so-called DCR+ proposal. Clearly, this proposal is an unprecedented intrusion into how network providers design their networks and deliver their services, and it discriminates among competing multi-channel video programming providers (MVPDs). This heavy hand of government will harm innovation.

Significantly, DCR+ standards would threaten the ability of the nation's producers of motion pictures and television programming to protect their intellectual property rights in the content they provide to cable operators. We remind you that Congress has specifically directed the commission in Sec. 629(b) of the Communications Act not to prescribe rules that could jeopardize the security of video programming.

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Certainly, interfering with property rights, property protections, and potentially reducing the value of intellectual property is not a goal of any policy but can be an egregious unintended consequence. Yet, the Commission is considering rules that would interfere with how cable firms can implement safeguards.

DCR+ standards are being "sold" to the FCC and others, but are not being produced, making them "vaporware" with no devices running it. On the other hand, the market-based OpenCable solution is a tested technology with devices being built to its standards today. Formulating new standards that would make DCR+ work would take time, as would modifying existing standards. In either case, it would seem that the probability of FCC's concluding such an ambitious project before the digital transition is vanishingly small.

Seemingly, cable firms would be required to go through the Commission, a panel of device manufacturers, their potential competitors, or some combination of the three, before they can innovate. In other words, the DCR+ proposal would let third parties place barriers in the way of cable companies delivering new services to their customers, slowing innovation, raising prices, and insinuating bureaucracy.

Additionally, the Commission proposes only to regulate "navigation devices" that connect to traditional cable television companies' systems, while leaving out other MVPDs such as satellite, telephone companies using IP-based services, and even those delivering Web-based video to television screens.

Regulating only one category of subscription video providers in a competitive market would greatly distort that market, determining winners and losers based on regulatory fiat rather than customer choice. That will not serve the public interest. Moreover, the potential for unintended consequences is substantially greater when regulators fail to treat all competitors alike.

To foster a vibrant and broad marketplace of innovation and value, the FCC should look for ways to remove regulations from those industries that have historically heavily regulated so that they can finally be free to compete on a level playing field, without the cost of government interference. But the Commission appears to be focusing on increasing the reach of regulation into certain portions of the marketplace.

To be fair, the Commission is also considering a much less harmful industry plan -- an "all-MVPD" solution under which all MVPDs could voluntarily agree on specifications to enable DTV sets and other navigation devices to work with all MVPD video services. There would be minimal FCC involvement in facilitating such a solution. We encourage the Commission to follow such an approach, allowing a solution to develop in the private sector.

Rather than superimposing its judgments on the efforts of subscription video service providers and CE device manufacturers, the Commission should let marketplace progress continue. If the Commission is concerned about market failure, its adoption of the DCR+

proposal will be a self-fulfilling prophecy -- the DCR+ proposal will lead to a market failure for all of the reasons noted.

Thank you for your consideration.



Tim Phillips  
Americans for Prosperity



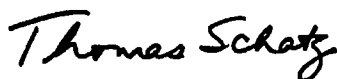
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